

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address Lynda T. Bui - Bar No. 201002 Rika M. Kido - Bar No. 273780 SHULMAN BASTIAN FRIEDMAN & BUI LLP 100 Spectrum Center Drive, Suite 600 Irvine, California 92618 Telephone: (949) 340-3400 Facsimile: (949) 340-3000 Email: LBui@shulmanbastian.com RKido@shulmanbastian.com <input type="checkbox"/> Individual appearing without attorney <input checked="" type="checkbox"/> Attorney for: Sam S. Leslie, Chapter 7 Trustee	FOR COURT USE ONLY
UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION	
In re: BARRY FISCHER, Debtor.	CASE NO.: 2:18-bk-13917-VZ CHAPTER: 7 NOTICE OF SALE OF ESTATE PROPERTY

Sale Date: 04/20/2021	Time: 11:00 am
Location: U.S. Bankruptcy Court, 255 E. Temple Street, Ctrm. 1368, Los Angeles, CA 90012	

Type of Sale: ☒ Public ☐ Private **Last date to file objections:** 04/06/2021

Description of property to be sold:
State Court Action and Other Claims as described in the attached Statement of Information and the Motion.

Terms and conditions of sale: See Attached Notice of Motion, Motion, Statement of Intention
Subject to the Bidding Procedures set forth in the Motion, the State Court Action and Other Claims will be sold to Steven Stolar for \$25,000.00, or an amount as increased by successful overbid, pursuant to the terms and conditions set forth in the Purchase Agreement.

Proposed sale price: \$25,000.00, subject to overbids

Overbid procedure (if any): Initial overbid amount of \$26,000.00, minimum bid increments thereafter shall be \$1,000.00

Overbids must be in writing and received by the Trustee and his counsel by 5:00 p.m. on or before April 15, 2021 and accompanied by a deposit of at least \$5,000.00 in certified funds made payable to the Trustee. (See Bidding Procedures in Motion)

If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:

Hearing Date/Time: 4/20/21 at 11:00 a.m.

Location: U.S. Bankruptcy Court
255 E. Temple Street, Ctrm. 1368
Los Angeles, CA 90012

Contact person for potential bidders (include name, address, telephone, fax and/or email address):

Rika M. Kido, Esq.
Shulman Bastian Friedman & Bui LLP
100 Spectrum Center Drive, Suite 100
Irvine, CA 92618
Telephone: (949) 340-3400
Email: RKido@shulmanbastian.com

Date: 03/30/2021

Statement of Information in Compliance with LBR 6004-1(c)(3)

<u>LBR 6004-1(c)(3) Requirement</u>	<u>Information</u>
<i>LBR 6004-1(c)(3)(A)</i> Date, Time, and Place of the hearing on the proposed sale:	Hearing Date and Time: April 20, 2021 at 11:00 a.m. Hearing Place: U.S. Bankruptcy Court 255 E. Temple Street, Courtroom 1368 Los Angeles, CA 90013
<i>LBR 6004-1(c)(3)(B)</i> Name and address of the proposed buyer:	Steven Stolar, Esq. Stolar & Associates, APLC 433 North Camden Drive, Suite 600 Beverly Hills, CA 90210
<i>LBR 6004-1(c)(3)(C)</i> Description of the property to be sold:	Estate's interest in State Court Action entitled Fischer v. Stolar; Case No. BC693804 ("State Court Action") and any other Pre-Petition claims and causes of action which the Debtor may assert against Stolar and Stolar and Associates ("Other Claims").
<i>LBR 6004-1(c)(3)(D)</i> Terms and conditions of the proposed sale, including the price and all contingencies:	Subject to the Bidding Procedures set forth below, the State Court Action and Other Claims will be sold to Steven Stolar for \$25,000.00, or an amount as increased by successful overbid, pursuant to the terms and conditions set forth in the Purchase Agreement attached as Exhibit "2" to the Declaration of Sam S. Leslie annexed to the Motion.
<i>LBR 6004-1(c)(3)(E)</i> Whether the proposed sale is free and clear of liens, claims or interests, or subject to them, and a description of all such liens, claims or interests:	Not applicable.
<i>LBR 6004-1(c)(3)(F)</i> Whether the proposed sale is subject to higher and better bids:	Yes - See the Bidding Procedures set forth in the Motion.
<i>LBR 6004-1(c)(3)(G)</i> Consideration to be received by the Estate, including estimated commissions, fees and other costs of sale:	The Estate is expected to receive at least \$25,000.00 or an amount as increased by a successful overbid.
<i>LBR 6004-1(c)(3)(H)</i> If authorization is sought to pay commission, the identity of the auctioneer, broker, or sales agent and the amount or percentage of the proposed commission to be paid:	There is no broker that will be involved in the sale transaction, and no escrow company will be utilized. It is anticipated that there will be no costs associated with the sale other than regular administrative costs of the Debtor's Estate.
<i>LBR 6004-1(c)(3)(I)</i> A description of the estimated or possible tax consequences to the Estate, if known, and how any tax liability generated by the sale of the property will be paid:	Pursuant to the Trustee's accountant, there will be no administrative tax due as a result of the sale of the State Court Action and Other Claims.
<i>LBR 6004-1(c)(3)(J)</i> Date which objection must be filed and served:	Objections, if any, must be filed and served fourteen (14) days prior to the Hearing Date or April 6, 2021.

NOTICE AND MOTION

<p>Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address</p> <p>Lynda T. Bui - Bar No. 201002 Rika M. Kido - Bar No. 273780 SHULMAN BASTIAN FRIEDMAN & BUI LLP 100 Spectrum Center Drive, Suite 600 Irvine, California 92618 Telephone: (949) 340-3400 Facsimile: (949) 340-3000 Email: LBui@shulmanbastian.com RKido@shulmanbastian.com</p> <p><input type="checkbox"/> Individual appearing without attorney <input checked="" type="checkbox"/> Attorney for: Sam S. Leslie, Chapter 7 Trustee</p>	<p>FOR COURT USE ONLY</p>
<p>UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION</p>	
<p>In re:</p> <p>BARRY FISCHER,</p> <p style="text-align: center;">Debtor.</p> <p style="text-align: right;">Debtor(s).</p>	<p>CASE NO.: 2:18-bk-13917-VZ CHAPTER: 7</p> <p>NOTICE OF MOTION FOR:</p> <p>CHAPTER 7 TRUSTEE'S MOTION FOR ORDER APPROVING THE SALE OF STATE COURT CLAIM PURSUANT TO 11 U.S.C. §§363(b)(1), SUBJECT TO OVERBIDS, COMBINED WITH NOTICE OF BIDDING PROCEDURES AND REQUEST FOR APPROVAL OF THE BIDDING PROCEDURES, AND GRANTING RELATED RELIEF</p> <p>(Specify name of Motion)</p> <p>DATE: 04/20/2021 TIME: 11:00 am COURTROOM: 1368 PLACE: United States Bankruptcy Court 255 E. Temple Street Los Angeles, CA 90012</p>

1. TO (*specify name*): Honorable Vincent P. Zurzolo, U.S. Bankruptcy Judge, the Office of the United States Trustee, Creditors and Parties in Interest
2. NOTICE IS HEREBY GIVEN that on the following date and time and in the indicated courtroom, Movant in the above-captioned matter will move this court for an Order granting the relief sought as set forth in the Motion and accompanying supporting documents served and filed herewith. Said Motion is based upon the grounds set forth in the attached Motion and accompanying documents.
3. **Your rights may be affected.** You should read these papers carefully and discuss them with your attorney, if you have one. (If you do not have an attorney, you may wish to consult one.)

4. **Deadline for Opposition Papers:** This Motion is being heard on regular notice pursuant to LBR 9013-1. If you wish to oppose this Motion, you must file a written response with the court and serve a copy of it upon the Movant or Movant's attorney at the address set forth above no less than fourteen (14) days prior to the above hearing date. If you fail to file a written response to this Motion within such time period, the court may treat such failure as a waiver of your right to oppose the Motion and may grant the requested relief.
5. **Hearing Date Obtained Pursuant to Judge's Self-Calendaring Procedure:** The undersigned hereby verifies that the above hearing date and time were available for this type of Motion according to the judge's self-calendaring procedures.

Date: 03/30/2021

Shulman Bastian Friedman & Bui LLP
Printed name of law firm

/s/ Rika M. Kido
Signature

Rika M. Kido
Printed name of attorney

1 Lynda T. Bui - Bar No. 201002
Rika M. Kido - Bar No. 273780
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6 Attorneys for Sam S. Leslie,
Chapter 7 Trustee
7

8 **UNITED STATES BANKRUPTCY COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA, LOS ANGELES DIVISION**
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11 In re

12 **BARRY FISCHER,**

13 Debtor.
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Case No. 2:18-bk-13917-VZ

Chapter 7

**CHAPTER 7 TRUSTEE'S MOTION FOR
ORDER APPROVING THE SALE OF
STATE COURT CLAIM PURSUANT TO
11 U.S.C. §§363(b)(1), SUBJECT TO
OVERBIDS, COMBINED WITH NOTICE
OF BIDDING PROCEDURES AND
REQUEST FOR APPROVAL OF THE
BIDDING PROCEDURES, AND
GRANTING RELATED RELIEF;
MEMORANDUM OF POINTS AND
AUTHORITIES AND DECLARATION OF
SAM S. LESLIE IN SUPPORT THEREOF**

Hearing Date

Date: April 20, 2021

Time: 11:00 a.m.

Place: Courtroom 1368

Edward R. Roybal Federal Building
& U.S. Courthouse
255 E. Temple Street
Los Angeles, CA 90012

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**TO THE HONORABLE VINCENT P. ZURZOLO, UNITED STATES
BANKRUPTCY JUDGE, THE OFFICE OF THE UNITED STATES TRUSTEE,
CREDITORS AND PARTIES-IN-INTEREST:**

Sam S. Leslie, Chapter 7 Trustee (“Trustee”) for the bankruptcy estate (“Estate”) of Barry Fischer (“Debtor”), brings this Motion for Order Approving the Sale of State Court Claim Pursuant to 11 U.S.C. § 363(b)(1), Subject to Overbids, Combined With Notice of Bidding Procedures and Request for Approval of the Bidding Procedures and Granting Related Relief (“Motion”) as follows:

I. INTRODUCTION

The Trustee has received an offer from Steven Stolar (“Buyer” or “Stolar”) to purchase the Estate’s interest in the State Court Action (defined below) and any other Pre-Petition claims and causes of action which the Debtor may assert against Stolar and Stolar and Associates (“Other Claims”) for \$25,000.00, subject to overbids. The offer by the Buyer is the best offer the Estate has received for the State Court Action and the Other Claims, and is the result of negotiations between the Trustee and the Buyer for the highest and best offer. The expenses to be incurred if the Estate were to pursue the State Court Action and the Other Claims, particularly given that the Debtor filed the State Court Action on his own behalf so new counsel would need to be found and retained, most likely exceeding any additional benefit that may be achieved. Since the State Court Action and the Other Claims cannot be easily valued and given the requirements of Local Bankruptcy Rule 6004-1(c)(2)(A), the sale of the Estate’s interest in the State Court Action and Other Claims to the Buyer is for \$25,000.00 (the price for which the Buyer is willing to purchase the State Court Action and the Other Claims), subject to overbids. Through the sale, the Trustee is expected to generate proceeds of \$25,000.00 for the benefit of the Estate and its creditors. Further, in the event the purchase price is increased by a successful overbid, the estimated net proceeds will increase and provide greater distribution to creditors.

II. RELEVANT FACTS

A. Case Commencement

On April 6, 2018, the Debtor filed a Voluntary Petition for relief under Chapter 7 of the Bankruptcy Code, commencing Case No. 2:18-bk-13917-VZ (“Bankruptcy Case”).

Sam S. Leslie is the duly appointed, qualified, and acting Chapter 7 Trustee for the Debtor's Estate.

B. State Court Action

The Debtor filed his Schedules and Statement of Financial Affairs on April 20, 2018 [Docket No. 16]. On his Schedule A/B, the Debtor lists his claim against Stolar: "Fischer v. Stolar; Case No. BC693804" with a value of \$0.00. On his Statement of Financial Affairs, Part 4, the Debtor also listed his claim for "commercial/business tort" as set forth in a lawsuit entitled *Fischer, et al. v. Stolar, et al.*, Case No. BC693804 (the "State Court Action"), which is pending in the Superior Court of California, County of Los Angeles ("State Court").

In his Complaint filed in the State Court Action on February 13, 2018 ("Complaint"), the Debtor alleged, among other causes of action, that Stolar breached an oral contract with the Debtor regarding the Debtor joining Stolar's law office and that Stolar made misrepresentations regarding the payments and commissions he would pay the Debtor under the oral contract. (Declaration of Sam S. Leslie ("Leslie Decl."), **Exhibit "1"**) Stolar has not filed an Answer to the Complaint and the State Court Action has been stayed since May 30, 2018. (Leslie Decl. ¶ 4)

C. Basis for Value of the State Court Action and the Other Claims

Initially, the Trustee considered abandoning the Estate's interest in the State Court Action and the Other Claims back to the Debtor. (Leslie Decl. ¶ 5) The Trustee concluded that the costs associated with litigating the State Court Action, particularly given that the Debtor filed the State Court Action on his own behalf so new counsel would need to be retained, outweighed the potential benefit to the Estate. Since the State Court Action and the Other Claims cannot be easily valued and given the requirements of Local Bankruptcy Rule 6004-1(c)(2)(A), the sale of the Estate's interest in the State Court Action and the Other Claims to the Buyer is for \$25,000.00 (the price for which the Buyer is willing to purchase the State Court Action and the Other Claims), subject to overbids.

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D. The Purchase Offer and Summary of the Sale Terms

After negotiations with the Trustee, the Buyer has offered to purchase the Estate's interest in the State Court Action and the Other Claims for \$25,000.00 ("Purchase Price"), subject to overbids. Attached as **Exhibit "2"** to the Leslie Decl. is a true and correct copy of the Purchase and Sale Agreement ("Agreement").

A summary of the Agreement's terms are outlined below, but the summary and discussion are not meant to be a complete review of every provision of the Agreement. The Agreement itself is the legally binding document the Trustee seeks approval of. In the event of any inconsistency between the terms of the Agreement and this Motion, the Agreement alone shall govern. In summary, the principal terms of the sale are as follows (the Trustee is referred to at times as the "Seller" in the following summary):

Buyer	Steven Stolar
Purchase Price	\$25,000.00, subject to the Bidding Procedures set forth below. \$5,000.00 deposit. Balance of purchase price is due immediately upon entry of the Final Order.
Warranties	Each party warrants that: she/he/it has full authority to enter into this Agreement; that she/he/it has not assigned or conveyed her/his/its rights to any claim released herein to any other person; that she/he/it is executing this Agreement voluntarily and providing consent unaffected by duress or undue influence; that she/he/it has read this entire Agreement, paragraph by paragraph, and executes it only after being fully advised by counsel; that she/he/it fully understands the meaning of each term in this Agreement and fully understands that this Agreement is a full, final, and complete and integrated Agreement which can only be modified in a written document signed by all of the executing Parties; that she/he/it has neither received nor relied on any promises or representations outside the terms of this Agreement and agrees that none may be offered as evidence of the executing Parties' intentions herein.
"As-Is" Sale	Buyer acknowledges that he is purchasing the Estate's interest in the State Court Action and Other Claims on an "as is, where is" basis, without any warranties, either express or implied. Buyer forever waives, for himself, his heirs, successors and assigns, all claims against the Trustee, his attorneys (Shulman Bastian Friedman & Bui LLP), agents and employees, arising or which might otherwise arise in the future concerning the Estate's interest in the State Court Action and the Other Claims.
Bankruptcy Court Approval	The sale is expressly subject to Bankruptcy Court approval in the Debtor's bankruptcy case.
Jurisdiction of the Bankruptcy Court	Any and all disputes in connection with the Agreement are subject to the exclusive jurisdiction and venue of the United States Bankruptcy Court.

Sale Subject to Overbidding	The sale of the Estate's interest in the State Court Action and the Other Claims is subject to the Bid Procedures described below.
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E. Notice of Bidding Procedures

The Trustee has determined that it would benefit the Estate to permit all interested parties to receive information and bid for the State Court Action and the Other Claims, instead of selling the State Court Action and the Other Claims to the Buyer on an exclusive basis. Accordingly, in order to obtain the highest and best offer for the benefit of the creditors of this Estate, the Trustee is utilizing and also seeks Court approval of the following bid procedures ("Bidding Procedures"):

1. Potential overbidders must bid an initial amount of at least \$1,000.00 over the Purchase Price or a total of at least \$26,000.00. Minimum bid increments thereafter shall be \$1,000.00. The Trustee shall have sole discretion to determine which overbid is best for the Estate and will seek approval thereof from the Court.

2. All Overbids must be delivered in writing and be received by the Trustee and his counsel, Rika M. Kido of Shulman Bastian Friedman & Bui LLP, by no later than 5:00 p.m. on the date that is **three (3) business days prior to the hearing on this Sale Motion ("Sale Hearing")**.

3. All Overbids must be accompanied by a deposit ("Overbid Deposit") in the form of certified funds in the amount of at least **Five Thousand Dollars (\$5,000.00)** payable to the Trustee ("Sam S. Leslie, Chapter 7 Trustee" and reference the bankruptcy estate of Barry Fischer) and delivered to the attention of Sam S. Leslie, Chapter 7 Trustee, 1130 S. Flower Street, Suite 312, Los Angeles, CA 90015.

4. All Overbidders must also provide evidence of having sufficient specifically committed funds to complete the transaction for the bid amount and such other documentation relevant to the Overbidders' ability to qualify as the buyer and to close the sale and immediately and unconditionally pay the winning bid purchase price at the Closing.

5. All Overbidders must seek to acquire the Estate's interest in the State Court Action and the Other Claims on terms and conditions not less favorable to the Estate than the terms and conditions to which Stolar has agreed in seeking to purchase the Estate's interest in the State Court Action and the Other Claims as set forth herein.

6. If one or more overbids are received, the final bidding round for the Estate's interest in the State Court Action and the Other Claims shall be held at the Sale Hearing in the Bankruptcy Court in order to allow all potential bidders to have the opportunity to overbid and purchase the Estate's interest in the State Court Action and the Other Claims. At the final bidding round to be conducted before the Bankruptcy Court, the Trustee will seek entry of an order, inter alia, authorizing and approving the sale of the Estate's interest in the State Court Action and the Other Claims to the bidder whom the Trustee, in the exercise of his business judgment, has determined to have made the highest and best offer to purchase the Estate's interest in the State Court Action and the Other Claims, consistent with the Bidding Procedures set forth above (the "Successful Bidder"). The Sale Hearing may be adjourned or rescheduled without notice, other than by an announcement of the adjourned date at the Sale Hearing in the Bankruptcy Court.

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1 7. At the Sale Hearing, the Trustee will seek entry of an order, inter alia, authorizing
2 and approving the sale of the Estate's interest in the State Court Action and the Other Claims to the
3 Successful Bidder. The Sale Hearing may be adjourned or rescheduled without notice other than
by an announcement of the adjourned date at the Sale Hearing.

4 8. In the event that the Successful Bidder fails to close the purchase and sale of the
5 Estate's interest in the State Court Action and the Other Claims within the time parameters approved
6 by the Court, the Trustee shall retain the Successful Bidder's Overbid Deposit and will be released
7 from his obligation to sell the Estate's interest in the State Court Action and the Other Claims to the
8 Successful Bidder. The Trustee may then sell the Estate's interest in the State Court Action and the
9 Other Claims to the first back-up bidder approved by the Court at the Sale Hearing ("First Back-Up
10 Bidder").

11 9. In the event that the First Back-Up Bidder fails to close the purchase and sale of the
12 Estate's interest in the State Court Action and the Other Claims within the time parameters approved
13 by the Court, the Trustee shall retain the First Back-Up Bidder's Overbid Deposit and will be
14 released from his obligation to sell the Estate's interest in the State Court Action and the Other
15 Claims to the First Back-Up Bidder. The Trustee may then sell the Estate's interest in the State
16 Court Action to the second back-up bidder approved by the Court at the Sale Hearing ("Second
17 Back-Up Bidder").

11 III. ARGUMENT¹

12 A. The State Court Action and the Other Claims are Property of the Estate that the 13 Trustee May Administer for the Benefit of Unsecured Creditors.

14 Causes of action owned by the trustee are intangible items of property of the estate that may
15 be sold. 11 U.S.C. § 541(a)(1); *Fitzgerald v. Ninn worx SR, Inc. (In re Fitzgerald)*, 428 B.R. 872,
16 883 (9th Cir. B.A.P. 2010); *Simantob v. Claims Prosecutor, L.L.C. (In re Lahijani)*, 325 B.R. 282,
17 287-288 (9th Cir. B.A.P. 2005). These include causes of action owned by the debtor as of the filing
18 of the case. *Id.*

19 The State Court Action is a pre-petition cause of action brought by the Debtor against Steven
20 Stolar in State Court. The Other Claims are defined in the Agreement as "any other Pre-Petition
21 claims and causes of action which the Debtor may asset against Stolar and Stolar and Associates."
22 Accordingly, the Trustee has the authority to sell the Estate's interest in the State Court Action and
23 the Other Claims to the Buyer.

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28 ¹ Although Local Bankruptcy Rule 6004-1(c)(2)(C) does not require that a memorandum of points and authorities be
filed in support of sale motion, the Trustee is nevertheless submitting one.

B. There is a Good Business Reason for the Sale and the Sale is in the Best Interest of the Estate.

The duties of a trustee in a Chapter 7 filing are enumerated in Section 704 of the Bankruptcy Code, which provide in relevant part as follows:

(a) The trustee shall—

(1) collect and reduce to money the property of the estate for which such trustee serves, and close such estate as expeditiously as is compatible with the best interests of parties in interest;

(2) be accountable for all property received;

...

11 U.S.C. § 704.

Further, the Trustee, after notice and hearing, may sell property of the estate. 11 U.S.C. § 363(b). Courts will ordinarily approve a proposed sale if there is a good business reason for the sale and the sale is in the best interests of the estate. *In re Wilde Horse Enterprises, Inc.*, 136 B.R. 830, 841 (Bankr. C.D. Cal. 1991); *In re Lionel Corp.*, 722 F.2d 1063, 1069 (2d Cir. 1983). In this case, the sale of the Estate's interest in the State Court Action and the Other Claims is anticipated to net the Estate approximately \$25,000.00. Given that the Estate's interest in the sale of the State Court Action and the Other Claims is subject to overbids, it is anticipated that the Trustee will receive the best and highest value for the Estate's interest in the State Court Action and the Other Claims and therefore the Purchase Price is fair and reasonable. In the event the Purchase Price is increased by a successful overbid, the estimated net proceeds will increase, providing an additional benefit to unsecured creditors. Accordingly, there is a good business reason for the sale and the sale is in the best interests of the Estate.

C. The Court Has the Authority to Approve the Bid Procedures.

Bankruptcy Code Section 363(b)(1) provides that a trustee "after notice and hearing, may use, sell or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1). Furthermore, under Bankruptcy Code Section 105(a), "[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a). Thus, pursuant to Bankruptcy Code Sections 363(b)(1) and 105(a), this Court may

1 approve the Bidding Procedures, which assist the Trustee to obtain the best possible price, on the
2 best possible terms, for the State Court Action and the Other Claims.

3 **D. Sale of the State Court Action and the Other Claims is Fair and Equitable.**

4 When a sale amounts to an acquisition of causes of action by a defendant, it must also be
5 analyzed as a compromise and the court has an independent duty to determine whether such
6 “compromise” is “fair and equitable.” *Fitzgerald*, 428 B.R. at 884 (9th Cir. B.A.P. 2010); *Lahijani*,
7 325 B.R. at 290 (9th Cir. B.A.P. 2005). The purpose of a compromise agreement is to allow the
8 parties to avoid the expenses and burdens associated with litigation. *Martin v. Kane (In re A&C*
9 *Properties)*, 784 F.2d 1377, 1380-81 (9th Cir. 1986), *cert. denied sub nom, Martin v. Robinson*, 479
10 U.S. 854 (1986). Generally, the benchmark in determining the propriety of a settlement is whether
11 the settlement is in the best interests of the estate and its creditors. *In re Energy Cooperative, Inc.*,
12 886 F.2d 921, 927 (7th Cir. 1989). To be approved, the settlement need not represent the highest
13 possible return to the estate, but merely must fall within the “range of reasonableness.” *In re Walsh*
14 *Construction, Inc.*, 669 F.2d 1325, 1328 (9th Cir. 1992). In making this determination, the
15 bankruptcy court need not conduct a trial or even a “mini trial” on the merits. *Id.*

16 In determining the fairness, reasonableness and adequacy of a proposed settlement, the Court
17 must consider the following factors:

- 18 (a) The probability of success in the litigation; (b) the difficulties, if
19 any, to be encountered in the matter of collection; (c) the complexity
20 of the litigation involved, and the expense, inconvenience, and delay
necessarily attending it; (d) the paramount interests of the creditors
and a proper deference to their reasonable views in the premises.

21 *A & C Properties*, 784 F.2d at 1381; *In re Woodson*, 839 F.2d 610, 620 (9th Cir. 1987). In other
22 words, the Court must weigh certain factors in order to determine whether the compromise is in the
23 best interests of the bankrupt estate. *A & C Properties*, 784 F.2d at 1382.

24 As set forth further below, the Trustee submits that based on the four factors under *A & C*
25 *Properties*, the sale of the Estate’s interest in the State Court Action and the Other Claims is fair and
26 equitable and in the best interest of the Estate and its creditors.

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1 1. **Probability of Success in Litigation**

2 The Trustee's probability of prevailing in the State Court Action is low and at best, uncertain,
3 given the current information. The Other Claims include any other Pre-Petition claims and causes
4 of action which the Debtor may assert against Stolar and Stolar and Associates, which were not
5 included in the State Court Action. The Trustee is not aware of any other claims and believes all
6 Pre-Petition claims were asserted in the State Court Action. Since the Debtor was a licensed
7 attorney², he filed the State Court Action on his own behalf. Were the Trustee to proceed with
8 litigation, he would need to find new counsel willing to pursue the litigation on behalf of the Estate
9 given that the Debtor would be a witness and an unlikely candidate for special counsel. Hiring
10 special counsel would require the Estate to incur additional fees/costs towards the litigation that
11 likely far exceed any benefit to creditors. Additionally, if the Trustee were to proceed with litigation
12 of the State Court Action, the Trustee will be required to meet his burden of proof to substantiate
13 the fact-intensive claims alleged in the State Court Action, which require the full cooperation of the
14 Debtor, who alone has knowledge of the facts. There has been no discovery conducted and the
15 Trustee has little factual information other than the allegations. Accordingly, given the Trustee's
16 difficulties in pursuing the litigation given the need for new counsel and the fact-intensive nature of
17 the claims, the likelihood of prevailing in litigation is low and this factor weighs in favor of
18 approving the Agreement.

19 2. **Difficulties to be Encountered in the Matter of Collections.**

20 If any damages are awarded in favor of the Trustee, the Trustee will be required to incur the
21 costs and extend the efforts to pursue collection on a judgment against the Buyer. The Trustee has
22 not fully evaluated the financial stability of the Buyer. The Buyer has indicated that he is facing
23 financial hardships given the pandemic and as a result of his failed partnership with the Debtor.
24 Such time and costs are unnecessary as the Agreement provides for direct payment to the Trustee.
25 Accordingly, this weighs in favor of settling.

26 ///

27 _____
28 ² The website for the State Bar of California provides that, as of May 1, 2020, the Debtor is "not eligible to practice law in California" due to discipline with actual suspension.

3. **The Complexity of the Litigation Involved, Expense, Inconvenience, and Delay.**

The Complaint alleges causes of action for: (1) breach of contract; (2) fraud and deceit misrepresentation; and (3) fraud and conceit concealment. Specifically, the Debtor asserts that Stolar breached an oral contract with the Debtor regarding the Debtor joining Stolar's law office and that Stolar made misrepresentations regarding the payments and commissions he would pay the Debtor under the oral contract. Stolar has not filed an Answer to the Complaint and the State Court Action has been stayed since May 30, 2018. If the Motion is approved, the Estate will not bear the cost and expense associated with preparing for trial of very fact-specific claims, trying the case, and perhaps respond to any appeals. The Agreement allows the Estate to receive funds now and avoid the risks inherent in any litigation. Rather than delay the matter and incur expenses or resources preparing for trial, the Trustee has determined that the Agreement reached is fair and equitable. Based thereon, the Trustee believes the proposed Agreement is the most expedient and cost-effective method for administering the State Court Action. Accordingly, this factor weighs in favor of settling.

4. **The Paramount Interests of Creditors and Proper Deference to Reasonable Views.**

Based on his good business judgment, the Trustee believes that the Agreement reached is fair and reasonable, and that it will benefit the Estate and its creditors by netting the Estate \$25,000.00 and possibly more through the proposed Bidding Procedures. The Agreement avoids the costs and risks associated with litigating the State Court Action and provides certainty and a tangible benefit to the Estate. If the Agreement is not approved, the Trustee does not intend to pursue the State Court Action given the issues regarding counsel and the lack of certain net benefits to the Estate. Therefore, the Agreement should be approved as a means of preserving assets and enhancing the value of the Estate for the benefit of creditors.

E. **The Court Has the Authority to Waive the Fourteen-Day Stay of Sale.**

Federal Rule of Bankruptcy Procedure 6004(h) provides that "[a]n order authorizing the use, sale or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the Court orders otherwise." Fed. Rule Bankr. P. 6004(h).

1 The Trustee desires to close on the sale of the State Court Action and the Other Claims as
2 soon as practicable after entry of an order approving the sale. Accordingly, the Trustee requests that
3 the Court waive the fourteen-day stay requirement.

4 **IV. CONCLUSION**

5 **WHEREFORE**, based upon the foregoing, the Trustee respectfully submits that the
6 Agreement is “fair and equitable,” that good cause exists for granting the Motion, and requests that
7 the Court enter an order as follows:

- 8 1. Approving the Bidding Procedures utilized by the Trustee as described above.
- 9 2. Authorizing the Trustee to sell the State Court Action and the Other Claims to the
10 Buyer pursuant to the terms and conditions as set forth in the Agreement attached as **Exhibit “2”** to
11 the Leslie Decl.
- 12 3. Authorizing the Trustee to sign any and all documents convenient and necessary in
13 pursuit of the sale as set forth above, including, but not limited to, any and all conveyances
14 contemplated by the Agreement attached as **Exhibit “2”** to the Leslie Decl.
- 15 4. Waiving the fourteen day stay of the order approving the sale of the State Court
16 Action and the Other Claims under Federal Rules of Bankruptcy Procedure 6004(h).
- 17 5. For such other and further relief as the Court deems just and proper under the
18 circumstances of this case.

19 Respectfully submitted,

20 **SHULMAN BASTIAN FRIEDMAN & BUI LLP**

21
22 DATED: March 30, 2021

23 By: /s/ Rika M. Kido
24 Lynda T. Bui
25 Rika M. Kido
26 Attorneys for Sam S. Leslie, Chapter 7 Trustee
27
28

DECLARATION

DECLARATION OF SAM S. LESLIE

I, Sam S. Leslie, declare as follows:

1. I am the duly appointed, qualified and acting Chapter 7 trustee for the bankruptcy estate (“Estate”) of Barry Fischer (“Debtor”). I have personal knowledge of the facts set forth herein, and if called and sworn as a witness, I could and would competently testify thereto, except where matters are stated on information and belief, in which case I am informed and believe that the facts so stated are true and correct.

2. I make this declaration in support my Motion for Order Approving the Sale of State Court Claim Pursuant to 11 U.S.C. §363(b)(1), Subject to Overbids, Combined With Notice of Bidding Procedures and Request for Approval of the Bidding Procedures, and Granting Related Relief (“Motion”). All capitalized terms not otherwise defined herein shall have the meaning set forth in the Motion.

3. I have read and I am aware of the contents of the Motion and the accompanying Memorandum of Points and Authorities. The facts stated in the Motion and the Memorandum of Points and Authorities are true to the best of my knowledge.

4. On February 13, 2018, the Debtor filed the Complaint, commencing the State Court Action. Stolar has not filed an Answer to the Complaint and the State Court Action has been stayed since May 30, 2018. Attached hereto as **Exhibit “1”** is a true and correct copy of the Complaint.

5. Initially, I considered to abandoning the Estate’s interest in the State Court Action and the Other Claims back to the Debtor. However, the Buyer indicated that he would be willing to “purchase” the State Court Action and the Other Claims and through my counsel, we negotiated the terms.

6. Attached hereto as **Exhibit “2”** is a true and correct copy of the Purchase and Sale Agreement (“Agreement”) for the sale of the State Court Action and the Other Claims.

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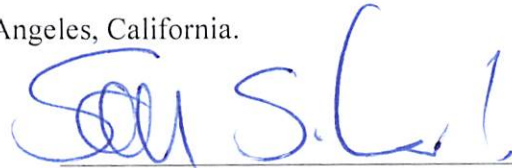
1 7. The Buyer's offer presented in the Motion is the highest and best offer the Estate has
2 received. I believe that it would benefit the Estate to permit all interested parties to receive
3 information and bid for the State Court Action and the Other Claims instead of selling the Estate's
4 interest in the State Court Action and the Other Claims to the Buyer on an exclusive basis.
5 Accordingly, in order to obtain the highest and best offer for the benefit of the creditors of this
6 Estate, I also seek Court approval of the Bidding Procedures described in the Motion.

7 8. Through the sale, I expect to generate proceeds of approximately \$25,000.00, which
8 will benefit the Estate by providing funds for a distribution to the holders of unsecured claims.

9 9. For the reasons set forth in the Motion and this Declaration, I respectfully request
10 that the Court grant the Motion so that I do not lose this favorable business opportunity to net a
11 substantial amount of money for the Estate.

12 I declare under penalty of perjury under the laws of the United States of America that the
13 foregoing is true and correct.

14 Executed on March 30, 2021 at Los Angeles, California.



15
16 Sam S. Leslie
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EXHIBIT 1

BARRY FISCHER C.F.L.S. - SBN 122412
LAW OFFICES OF BARRY FISCHER APC
2412 Beverwil Drive
Los Angeles, California 90034
Tel: (310) 788-0900
Fax: (310) 280-9004

Attorney for Plaintiff
BARRY FISCHER, in pro per
a.k.a LAW OFFICES OF BARRY FISCHER

FILED
Superior Court of California
County of Los Angeles

FEB 13 2018

Sherri R. Carter, Executive Officer/Clerk
By M. Soto, Deputy
Moses Soto

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

BY FAX

BARRY FISCHER, an individual; a.k.a. LAW)
OFFICES OF BARRY FISCHER,)

Plaintiff,)

vs.)

STEVEN STOLAR, an individual, STOLAR)
AND ASSOCIATES APLC., STOLAR AND)
FISCHER APLC. NOW STOLAR AND)
ASSOCIATES APLC)
and DOES 1 THROUGH 50, Inclusive,)

Defendants.)

CASE NUMBER: BC 693804

COMPLAINT FOR DAMAGES

1) BREACH OF CONTRACT

**2) FRAUD AND DECEIT
MISREPRESENTATION**

**3) FRAUD AND DECEIT
CONCEALMENT**

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

Plaintiff Barry Fischer, and the LAW OFFICES OF BARRY FISCHER (collectively referred to as either "Fischer or Attorney Fischer") brings this Complaint against STEVEN STOLAR AND INDIVIDUAL, STOLAR AND ASSOCIATES APLC., STOLAR AND FISCHER APLC. NOW STOLAR AND ASSOCIATES APLC and DOES 1 THROUGH 50, Inclusive referred to as Defendant and alleges as follows:

0107/01/20

CIT/DOSE: EC693804
LEA/DEF#:

RECEIPT #: CCH524880022

DATE PAID: 02/13/18 09:01 AM
PAYMENT: \$435.00 310

RECEIVED:

CHECK:	\$435.00
CASH:	\$0.00
CHANGE:	\$0.00
CARD:	\$0.00

EXHIBIT 1

84-0

02/05/2020

FIRST CAUSE OF ACTION

(By Plaintiff against Defendants, and each of them, for Breach of Contract)

1. Barry Fischer was and is an attorney licensed to practice law in the State of California and is a resident of Los Angeles County with his principal place of business being Century City, Los Angeles, California. Law Offices of Barry Fischer, is a DBA for Barry Fischer.

2. Plaintiff is informed and believes, and based thereon alleges that Defendant STEVEN STOLAR (referred herein as "Defendant") is an individual who resides in Los Angeles County is an attorney licensed to practice law in the State of California. Steven Stolar operates his law practice under the name of STOLAR AND ASSOCIATES APLC., a California Professional law Corporation, and from approximately 1/1/2015 to 6/1/2016 operated under his law firm business under the name STOLAR AND FISCHER APLC. Which on or about as of June 1, 2016 is now renamed to STOLAR AND ASSOCIATES APLC. Stolar and Associates.APLC is licenced t do business in the state of California and does business in Los Angeles County. Stolar and all Stolar entities are collectively referred to in this complaint as either "Stolar" or "Defendants".

3. Jurisdiction is in this Court because the contract was entered into within this jurisdiction and the performance was to take place within the jurisdiction of Los Angeles, California.

4. The true names and capacities, whether individual corporate, associate, or otherwise of Defendants DOES 1 through 50, inclusive (the "Doe Defendants"), are unknown to Plaintiff who therefore sues the Doe Defendants by such fictitious names, and will seek leave of court to amend this complaint to show the true names and capacities of the Doe Defendants when they have been ascertained. Plaintiff alleges that each of the Doe Defendants are responsible for the acts and conduct as herein alleged. STOLAR and Doe Defendants are hereinafter collectively referred to as ("Defendants").

- 1 5. At all times mentioned herein, attorney Barry Fischer was and is an attorney licensed
2 to do business in the State of California (hereinafter "Plaintiff") in the County of Los
3 Angeles, State of California, was and is an attorney who rendered services to
4 Defendants and is still an attorney duly admitted to practice law and are practicing
5 under California law before the courts of the County of Los Angeles State of
6 California.
- 7 6. Plaintiff is informed and believes, and based thereon alleges, that at all times
8 mentioned therein, each of the Defendants was the agent, servant or employee of the
9 remaining Defendants and in doing the things alleged within this complaint was acting
10 within the course, scope, and capacity of that agency and employment.
- 11 7. The obligation herein alleged is not within the provisions of either the Unruh Act or
12 the Rees-levering Act as it pertains neither to goods sold to consumers nor to an
13 automobile installment contract.
- 14 8. The obligation herein alleged was entered into in Los Angeles and was to be performed
15 within the County of Los Angeles, State of California. Accordingly, Los Angeles is the
16 proper place for the trial of this action.
- 17 9. On or about January 1, 2014, in Los Angeles County, Defendants and Plaintiff entered
18 into an oral agreement confirmed in writing with the following terms.
- 19 1) Barry Fischer would close his office at 9454 Wilshire Blvd, suite 701, Beverly hills, CA
20 90210 and relocate and move into Stolar law offices located at 433 N. Camden Drive suite
21 600 Beverly Hills, CA 90210.
- 22 2) Barry Fischer would bring his staff of Nathalie Amir, associate attorney Jody marketing
23 and public relations, and file clerk.
- 24 3) STOLAR would pay all existing salaries of Fischer's staff.
- 25 4) STOLAR would pay Barry Fischer a minimum monthly guarantee of \$20,000.00 a month,
26 plus 20% of gross fees collected from Fischer clients and Fischer new clients brought into
27 the STOLAR office. STOLAR would pay bonuses to FISCHER.
- 28 5) STOLAR would pay all expenses of the law firm operation.

- 1 6) FISCHER would pay none of the operating expenses of the law firm's operating
- 2 expenses.
- 3 7) FISCHER would bring all of his existing clients to the STOLAR office.
- 4 8) FISCHER and his staff and STOLAR and his staff would share the work responsibility on
- 5 all client files.
- 6 9) STOLAR would own all new receivables generated on STOLAR and FISCHER files.
- 7 10) STOLAR agreed to pay an additional \$1,000.00 a month to FISCHER to cover some of
- 8 FISCHER'S business related expenses advanced for STOLAR by FISCHER
- 9 10. On January 17, 2014, FISCHER closed his law firm at 9454 Wilshire Blvd, Beverly
- 10 Hills, California, relying on STOLAR representations, and relocated his entire office,
- 11 staff and equipment, and client files and clients to STOLAR offices.
- 12 11. STOLAR paid the guaranteed monthly payments to FISCHER from January 2014
- 13 through September 2015. Commencing in September 2015, STOLAR began not
- 14 paying the full \$21,000.00 minimum.
- 15 12. STOLAR sporadically paid FISCHER the 20% commissions due on FISCHER's client
- 16 cases.
- 17 13. As of May 1, 2016, STOLAR failed and refused to pay me an accumulation of
- 18 \$100,000.00 of the \$21,000.00 minimum per month plus approximately \$100,000.00 in
- 19 commissions earned on the client matters I brought into the STOLAR law office. AS of
- 20 May 1, 2016 STOLAR owed FISCHER \$250,000.00
- 21 14. On or about June 1, 2016, FISCHER moved out of the STOLAR law offices and
- 22 incurred relocation costs twice once for when FISCHER moved into STOLAR'S office
- 23 and again on moving out of STOLAR'S office of approximately \$25,000.00, plus
- 24 continued storage cost to store the office furniture and equipment in the amount of
- 25 approximately \$750.00 a month from 5/1/2016 to present and continuing on A month
- 26 to month basis.
- 27
- 28

02/05/2020

02/13/2018

- 1 15. STOLAR breached the contract with FISCHER and as a legal direct and proximate
2 cause FISCHER has incurred damages of \$275,000.00.
- 3 16. Plaintiff did perform all the matters referred to attorney in behalf of Defendants and
4 Plaintiff have performed all conditions and promises to be performed by them on
5 behalf of Defendants except as may have been excused or prevented by Defendants.
- 6 17. Plaintiff has made repeated demands on Defendants for payment of said compensation
7 for services and for payment of the necessary costs and disbursements, but Defendants
8 has refused to pay any part thereof, so that the total sum of \$275,000.00 remains due
9 and owing to Plaintiff, plus prejudgment interest at ten percent from the date they
10 became due and payable to FISCHER or at the minimum from May 1, 2016.

11
12 **SECOND CAUSE OF ACTION**

13 (By Plaintiff for FRAUD AND MISREPRESENTATION Against All Defendants)

- 14 18. The Plaintiff repeats and realleges paragraphs 1 through 17 herein above and
15 incorporates the same by reference as though set forth in full.
- 16 19. On or about from December 1, 2013 through January 17, 2014, Steven Stolar and on
17 behalf of all DEFENDANTS made the following representation(s) to BARRY
18 FISCHER.
- 19 20. On or about January 1, 2014, in Los Angeles County, Defendants and Plaintiff entered
20 into an agreement with the following terms.
- 21 1) If Barry Fischer would close his office at 9454 Wilshire Blvd, suite 701, Beverly hills,
22 CA 90210 and relocate and move into Stolar law offices located at 433 N. Camden Drive
23 suite 600 Beverly Hills, CA 90210 bring his staff of Nathalie Amir, associate attorney, Jody
24 Isaac marketing and public relations, and file clerk and all of FISCHER'S client files
25 STOLAR would pay FISCHER all of the following:
- 26 2) STOLAR had the financial ability to pay for all he promised to pay to FISCHER.
- 27 3) STOLAR would pay all existing salaries of Fischer's staff.
- 28 4) STOLAR would pay Barry Fischer a minimum monthly guarantee of \$20,000.00 a month,

1 plus 20% of gross fees collected from Fischer clients and Fischer new clients brought into
2 the STOLAR office. STOLAR would pay bonuses to FISCHER.

3 5) STOLAR would pay all expenses of the law firm operation.

4 6) FISCHER would pay none of the operating expenses of the law firm's operating
5 expenses.

6 7) STOLAR agreed to pay an additional \$1,000.00 a month to cover some of FISCHER'S
7 business related expenses advanced for STOLAR by FISCHER

8 21. The representations made by the defendant were in fact false. The true facts
9 were that STOLAR would only pay some of the amounts promised to FISCHER
10 and failed to pay 20% commissions, bonuses and monthly guarantees

11 22. When the defendant made these representations, he/it knew them to be false and
12 made these representations with the intention to deceive and defraud the
13 plaintiff and to induce the plaintiff to act in reliance on these representations in
14 the manner hereafter alleged, or with the expectation that the plaintiff would so
15 act.

16 23. The plaintiff, at the time these representations were made by the defendant and
17 at the time the plaintiff took the actions herein alleged, was ignorant of the
18 falsity of the defendant's representations and believed them to be true. In
19 reliance on these representations, the plaintiff was induced to and did close his
20 law office located at 9454 Wilshire Blvd., Suite 701, Beverly Hills, CA 90210,
21 relocate his office, merged his staff and client files into the STOLAR office. Had
22 the plaintiff known the actual facts, he/she would not have taken such action.
23 The plaintiff's reliance on the defendant's representations was justified because
24 STOLAR claimed to be making \$3,000,000 a year and was able to pay his office
25 overhead of \$150,000 a month.
26
27
28

1 24. As a proximate and legal result of the fraudulent conduct of the defendant(s) as
2 herein alleged, the plaintiff relocated his office, and staff and clients, and the
3 STOLAR did not pay FISCHER was STOLAR paid the guaranteed monthly
4 payments to FISCHER from January 2014 through September 2015. Commencing in
5 September 2015, STOLAR began not paying the full \$21,000.00 minimum. STOLAR
6 sporadically paid FISCHER the 20% commissions due on FISCHER's client cases. As
7 of May 1, 2016, STOLAR failed and refused to pay me an accumulation of \$100,000.00
8 of the \$21,000.00 minimum per month plus approximately \$150,000.00 in commissions
9 earned on the client matters I brought into the STOLAR law office. AS of May 1, 2016
10 STOLAR owed FISCHER \$200,000.00. On or about June 1, 2016, FISCHER moved
11 out of the STOLAR law offices and suffered relocation costs. by reason of which the
12 plaintiff has been damaged in the sum of \$ 250,000.00 plus relocation costs twice of
13 approximately plus continued storage cost to store the office furniture and equipment
14 in the amount of approximately \$750.00 A month from 5/1/2016 to present and
15 continuing on A month to month basis.

16 25. The aforementioned conduct of the defendant(s) was an intentional misrepresentation,
17 deceit, or concealment of a material fact known to the defendant(s) with the intention
18 on the part of the defendant(s) of thereby depriving the plaintiff of property or legal
19 rights or otherwise causing injury, and was despicable conduct that subjected the
20 plaintiff to a cruel and unjust hardship in conscious disregard of the plaintiff's rights,
21 so as to justify an award of exemplary and punitive damages.
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THIRD CAUSE OF ACTION

(By Plaintiff for FRAUD AND MISREPRESENTATION BY CONCEALMENT

Against All Defendants)

26. The Plaintiff repeats and realleges paragraphs 1 through 25 herein above and incorporates the same by reference as though set forth in full.

27. From January 17, 2014, Steven Stolar and on behalf of all DEFENDANTS concealed the amounts of money collected from FISCHER clients and by doing so failed and refused and hid from FISCHER the amount owed for commissions of 20% owed to FISCHER.

28. By concealing the amounts collected as a proximate and legal result of the fraudulent concealment conduct of the defendant(s) as herein alleged, STOLAR did not pay FISCHER the 20% commissions of monies paid to STOLAR from FISCHER clients in the estimated amount of \$150,000.00.

29. The aforementioned conduct of the defendant(s) was an intentional misrepresentation, deceit, or concealment of a material fact known to the defendant(s) with the intention on the part of the defendant(s) of thereby depriving the plaintiff of property or legal rights or otherwise causing injury, and was despicable conduct that subjected the plaintiff to a cruel and unjust hardship in conscious disregard of the plaintiff's rights, so as to justify an award of exemplary and punitive damages.

WHEREFORE, Plaintiff prays judgment against Defendants as follows:

FOR THE FIRST CAUSE OF ACTIONS AGAINST DEFENDANTS:

1. For the sum of \$275,000.00, plus interest of 10% from May 1, 2016.
2. For the sum of \$750.00 a month for storage space from may 1, 2016 to present and continuing on a month to month basis
2. For pre-judgment interest thereon at the rate of ten percent (10%) or the maximum legal rate pursuant to the terms of the written agreement from and after the date said sum became due;

**FOR THE SECOND CAUSE OF ACTION FOR FRAUD MISREPRESENTATION
AGAINST DEFENDANTS:**

- 1 1. For general damages in the sum of \$275,000.00
- 2 2. For special damages for amounts not paid, and costs incurred in the sum of \$275,000.00;
- 3 3. For punitive damages in an amount appropriate to punish the defendant(s) and deter
- 4 others from engaging in similar misconduct;

5 **FOR THE THIRD CAUSE OF ACTION FOR FRAUD AND DECEIT CONCEALMENT**
6 **AGAINST DEFENDANTS:**

- 7 1. For general damages in the sum of \$150,000.00
- 8 2. For special damages for amounts not paid, and costs incurred in the sum of \$150,000.00;
- 9 3. For punitive damages in an amount appropriate to punish the defendant(s) and deter
- 10 others from engaging in similar misconduct;

11 **FOR ALL CAUSES OF ACTION;**

- 12 3. For costs of suit incurred herein; and
- 13 4. For such other and further relief as the Court may deem just and proper.

14
15 DATED: February 12, 2018

LAW OFFICE OF BARRY FISCHER


Barry Fischer, Esq.
For the Plaintiffs

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): BARRY FISCHER SBN 122412 LAW OFFICES OF BARRY FISCHER APC 2412 BEVERWIL DRIVE LOS ANGELES, CA 90034 TELEPHONE NO.: 310-788-0900 FAX NO.: 310-280-9014 ATTORNEY FOR (Name): PLAINTIFFS		FOR COURT USE ONLY FILED Superior Court of California County of Los Angeles FEB 13 2018 Sherri R. Carter, Executive Officer/Clerk By <u>M. Soto</u> , Deputy Moses Soto CASE NUMBER: BC 69380 BY FAX JUDGE: DEPT:
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES STREET ADDRESS: 111 N. HILL STREET MAILING ADDRESS: 111 N. HILL STREET CITY AND ZIP CODE: LOS ANGELES, CA 90012 BRANCH NAME: CENTRAL		
CASE NAME: BARRY FISCHER VS STEVEN STOLAR		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less) <input type="checkbox"/> Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)		

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input checked="" type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input checked="" type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): 3
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case (You may use form CM-015.)

Date:
BARRY FISCHER

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

BY FAX

SHORT TITLE FISCHER VS STOLAR	CASE NUMBER BC 693804
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**CIVIL CASE COVER SHEET ADDENDUM AND
STATEMENT OF LOCATION
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

This form is required pursuant to Local Rule 2.3 in all new civil case filings in the Los Angeles Superior Court.

Step 1: After completing the Civil Case Cover Sheet (Judicial Council form CM-010), find the exact case type in Column A that corresponds to the case type indicated in the Civil Case Cover Sheet.

Step 2: In Column B, check the box for the type of action that best describes the nature of the case.

Step 3: In Column C, circle the number which explains the reason for the court filing location you have chosen.

Applicable Reasons for Choosing Court Filing Location (Column C)

- | | |
|--|---|
| 1. Class actions must be filed in the Stanley Mosk Courthouse, Central District. | 7. Location where petitioner resides. |
| 2. Permissive filing in central district. | 8. Location wherein defendant/respondent functions wholly. |
| 3. Location where cause of action arose. | 9. Location where one or more of the parties reside. |
| 4. Mandatory personal injury filing in North District. | 10. Location of Labor Commissioner Office. |
| 5. Location where performance required or defendant resides. | 11. Mandatory filing location (Hub Cases: - unlawful detainer, limited non-collection, limited collection, or personal injury). |
| 6. Location of property or permanently garaged vehicle. | |

Auto Tort
Other Personal Injury/Property Damage/Wrongful Death

A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons (See Step 3 Above)
Auto (22)	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1, 4, 11
Uninsured Motorist (46)	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist	1, 4, 11
Asbestos (04)	<input type="checkbox"/> A6070 Asbestos Property Damage	1, 11
	<input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	1, 11
Product Liability (24)	<input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1, 4, 11
Medical Malpractice (45)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons	1, 4, 11
	<input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1, 4, 11
Other Personal Injury/Property Damage/Wrongful Death (23)	<input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall)	1, 4, 11
	<input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.)	1, 4, 11
	<input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress	1, 4, 11
	<input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death	1, 4, 11

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SHORT TITLE:	CASE NUMBER
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	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Non-Personal Injury/ Property Damage/ Wrongful Death Tort	Business Tort (07)	<input checked="" type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1, 2, 3
	Civil Rights (08)	<input type="checkbox"/> A6005 Civil Rights/Discrimination	1, 2, 3
	Defamation (13)	<input type="checkbox"/> A6010 Defamation (slander/libel)	1, 2, 3
	Fraud (16)	<input type="checkbox"/> A6013 Fraud (no contract)	1, 2, 3
	Professional Negligence (25)	<input type="checkbox"/> A6017 Legal Malpractice <input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1, 2, 3 1, 2, 3
	Other (35)	<input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort	1, 2, 3
Employment	Wrongful Termination (36)	<input type="checkbox"/> A6037 Wrongful Termination	1, 2, 3
	Other Employment (15)	<input type="checkbox"/> A6024 Other Employment Complaint Case <input type="checkbox"/> A6109 Labor Commissioner Appeals	1, 2, 3 10
Contract	Breach of Contract/Warranty (06) (not insurance)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction) <input type="checkbox"/> A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence) <input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud) <input type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence)	2, 5 2, 5 1, 2, 5 1, 2, 5
	Collections (09)	<input type="checkbox"/> A6002 Collections Case-Seller Plaintiff <input type="checkbox"/> A6012 Other Promissory Note/Collections Case <input type="checkbox"/> A6034 Collections Case-Purchased Debt (Charged Off Consumer Debt Purchased on or after January 1, 2014)	5, 6, 11 5, 11 5, 6, 11
	Insurance Coverage (18)	<input type="checkbox"/> A6015 Insurance Coverage (not complex)	1, 2, 5, 8
	Other Contract (37)	<input type="checkbox"/> A6009 Contractual Fraud <input type="checkbox"/> A6031 Tortious Interference <input type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1, 2, 3, 5 1, 2, 3, 5 1, 2, 3, 8, 9
	Eminent Domain/Inverse Condemnation (14)	<input type="checkbox"/> A7300 Eminent Domain/Condemnation Number of parcels_____	2, 6
Real Property	Wrongful Eviction (33)	<input type="checkbox"/> A6023 Wrongful Eviction Case	2, 6
	Other Real Property (26)	<input type="checkbox"/> A6018 Mortgage Foreclosure <input type="checkbox"/> A6032 Quiet Title <input type="checkbox"/> A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2, 6 2, 6 2, 6
Unlawful Detainer	Unlawful Detainer-Commercial (31)	<input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	6, 11
	Unlawful Detainer-Residential (32)	<input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	6, 11
	Unlawful Detainer- Post-Foreclosure (34)	<input type="checkbox"/> A6020F Unlawful Detainer-Post-Foreclosure	2, 6, 11
	Unlawful Detainer-Drugs (38)	<input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2, 6, 11

SHORT TITLE:	CASE NUMBER
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	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above		
Judicial Review	Asset Forfeiture (05)	<input type="checkbox"/> A6108 Asset Forfeiture Case	2, 3, 6		
	Petition re Arbitration (11)	<input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration	2, 5		
	Writ of Mandate (02)	<input type="checkbox"/> A6151 Writ - Administrative Mandamus <input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter <input type="checkbox"/> A6153 Writ - Other Limited Court Case Review	2, 8 2 2		
	Other Judicial Review (39)	<input type="checkbox"/> A6150 Other Writ /Judicial Review	2, 8		
Provisionally Complex Litigation	Antitrust/Trade Regulation (03)	<input type="checkbox"/> A6003 Antitrust/Trade Regulation	1, 2, 8		
	Construction Defect (10)	<input type="checkbox"/> A6007 Construction Defect	1, 2, 3		
	Claims Involving Mass Tort (40)	<input type="checkbox"/> A6006 Claims Involving Mass Tort	1, 2, 8		
	Securities Litigation (28)	<input type="checkbox"/> A6035 Securities Litigation Case	1, 2, 8		
	Toxic Tort Environmental (30)	<input type="checkbox"/> A6036 Toxic Tort/Environmental	1, 2, 3, 8		
	Insurance Coverage Claims from Complex Case (41)	<input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only)	1, 2, 5, 8		
Enforcement of Judgment	Enforcement of Judgment (20)	<input type="checkbox"/> A6141 Sister State Judgment <input type="checkbox"/> A6160 Abstract of Judgment <input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations) <input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes) <input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax <input type="checkbox"/> A6112 Other Enforcement of Judgment Case	2, 5, 11 2, 6 2, 9 2, 8 2, 8 2, 8, 9		
	RICO (27)	<input type="checkbox"/> A6033 Racketeering (RICO) Case	1, 2, 8		
	Miscellaneous Civil Complaints	Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> A6030 Declaratory Relief Only <input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment) <input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex) <input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex)	1, 2, 8 2, 8 1, 2, 8 1, 2, 8	
		Partnership Corporation Governance (21)	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case	2, 8	
		Miscellaneous Civil Petitions	Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A6121 Civil Harassment <input type="checkbox"/> A6123 Workplace Harassment <input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case <input type="checkbox"/> A6190 Election Contest <input type="checkbox"/> A6110 Petition for Change of Name/Change of Gender <input type="checkbox"/> A6170 Petition for Relief from Late Claim Law <input type="checkbox"/> A6100 Other Civil Petition	2, 3, 9 2, 3, 9 2, 3, 9 2 2, 7 2, 3, 8 2, 9

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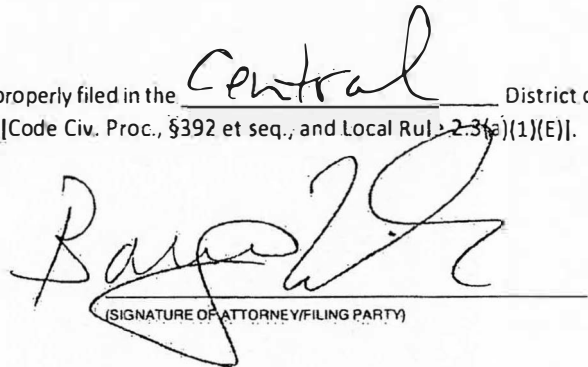
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Step 4: Statement of Reason and Address: Check the appropriate boxes for the numbers shown under Column C for the type of action that you have selected. Enter the address which is the basis for the filing location, including zip code. (No address required for class action cases).

REASON: <input type="checkbox"/> 1. <input type="checkbox"/> 2. <input checked="" type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10. <input type="checkbox"/> 11.		ADDRESS: 9454 WILSHIRE BLVD.	
CITY: BEVERLY HILLS	STATE: CA	ZIP CODE: 90210	

Step 5: Certification of Assignment: I certify that this case is properly filed in the Central District of the Superior Court of California, County of Los Angeles [Code Civ. Proc., §392 et seq., and Local Rule 2.3(e)(1)(E)].

Dated: 2/12/18


(SIGNATURE OF ATTORNEY/FILING PARTY)

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet, Judicial Council form CM-010.
4. Civil Case Cover Sheet Addendum and Statement of Location form, LACIV 109, LASC Approved 03-04 (Rev. 02/16).
5. Payment in full of the filing fee, unless there is court order for waiver, partial or scheduled payments.
6. A signed order appointing the Guardian ad Litem, Judicial Council form CIV-010, if the plaintiff or petitioner is a minor under 18 years of age will be required by Court in order to issue a summons.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

EXHIBIT 2

PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement (“Agreement”) is entered into by and between Sam S. Leslie, solely in his capacity as Chapter 7 Trustee (“Seller” or “Trustee”) for the bankruptcy estate (“Estate”) of Barry Fischer (“Debtor”), on the one hand, and Steven Stolar (“Stolar”), on the other hand. The aforementioned parties together shall be collectively referred to herein as the “Parties” and individually as “Party.”

I. RECITALS

This Agreement is made by the Parties, with reference to the following facts:

1.1 On April 6, 2018 (“Petition Date”), the Debtor filed a Voluntary Petition for relief under Chapter 7 of the Bankruptcy Code, commencing Case No. 2:18-bk-13917-VZ (“Bankruptcy Case”).

1.2 Sam S. Leslie is the duly appointed, qualified, and acting Chapter 7 Trustee for the Debtor’s Estate.

1.3 The Debtor filed his Schedules and Statement of Financial Affairs on April 20, 2018. On his Schedule A/B, the Debtor lists his claim against Stolar: “Fischer v. Stolar; Case No. BC693804” with a value of \$0.00. On his Statement of Financial Affairs, Part 4, the Debtor also listed his claim for “commercial/business tort” as set forth in a lawsuit entitled *Fischer, et al. v. Stolar, et al.*, Case No. BC693804 (the “State Court Action”), which is pending in the Superior Court of California, County of Los Angeles (“State Court”).

1.4 In his Complaint filed in the State Court Action on February 13, 2018 (“Complaint”), the Debtor alleged, among other causes of action, that Stolar and Stolar and Associates APLC (collectively, “Stolar and Associates”) breached an oral contract with the Debtor regarding the Debtor joining Stolar’s law office, Stolar and Associates, and that Stolar made misrepresentations regarding the payments and commissions he would pay the Debtor under the oral contract. Stolar has not filed an Answer to the Complaint, and the State Court Action has been stayed since May 30, 2018.

1.5 Seller, solely in his capacity as Trustee for the Debtor’s Estate, desires to sell the Estate’s interest in the State Court Action and any other Pre-Petition claims and causes of action which the Debtor may assert against Stolar and Stolar and Associates (“Other Claims”), free and clear of all liens, claims, encumbrances, charges, and interests, in exchange for the consideration described herein.

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II. AGREEMENT

NOW THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, the adequacy of which is hereby acknowledged by each Party, and in consideration of the mutual promises and covenants set forth below, the Parties agree as follows:

2.1 Purchase Price. The Trustee agrees to sell, and Stolar agrees to purchase, the Estate's interest in the State Court Action and the Other Claims, for Twenty-Five Thousand Dollars (\$25,000.00) (the "Purchase Price") on an "as is where is" basis, without any warranties either express or implied, in immediately available and good funds via cashier's check, or an amount as increased by a successful overbid to be paid by the Buyer (provided Buyer is the successful bidder) after the entry of a Final Order (defined below). The Buyer will provide the Purchase Price to the Trustee as follows:

2.1.1 Good Faith Deposit. Concurrent with the execution of this Agreement, in immediately available funds, the Buyer shall pay a good faith deposit of Five Thousand Dollars (\$5,000.00) ("Good Faith Deposit"). The Good Faith Deposit shall be made payable to "Sam S. Leslie, Chapter 7 Trustee" and reference the bankruptcy estate of Barry Fischer and shall be mailed to the attention of Sam S. Leslie, Chapter 7 Trustee, 3435 Wilshire Blvd., Suite 990, Los Angeles, CA 90010. The Good Faith Deposit shall be held by the Trustee and shall only be refundable if the Bankruptcy Court does not approve this Agreement and/or the Buyer is not the successful overbidder. If the Bankruptcy Court approves this Agreement, the Good Faith Deposit shall then become property of the Estate. If the Bankruptcy Court does not approve the Agreement and/or the Buyer is not the successful overbidder, then the Good Faith Deposit shall be immediately returned to the Buyer.

2.1.2 Balance Payment. If the Buyer is the successful overbidder, the Deposit shall be applied to the Purchase Price. The Purchase Price less the Good Faith Deposit ("Balance Payment") is due immediately upon entry of the Final Order. The Balance Payment shall be made payable to "Sam S. Leslie, Chapter 7 Trustee" and reference the bankruptcy estate of Barry Fischer and shall be mailed to the attention of Sam S. Leslie, Chapter 7 Trustee, 1130 South Flower Street, Suite 312, Los Angeles, CA 90015. Upon receipt of the Purchase Price and entry of a Final Order, the Trustee shall release the Estate's interest in the State Court Action and the Other Claims.

2.2 Court Approval. The Agreement is subject to overbids and Bankruptcy Court approval under 11 U.S.C. § 363 at a hearing noticed to creditors of the Debtor (the "Sale Hearing"). Upon receipt of a fully executed copy of this Agreement, the Trustee shall promptly file a motion with the Bankruptcy Court to obtain approval of this Agreement under 11 U.S.C. § 363 ("Motion"). This Agreement is contingent upon and expressly conditioned on the issuance of an order entered by the Bankruptcy Court at the Sale Hearing which approves the Motion without modification, and which is not the subject of a stay or a notice of appeal for a period of fourteen (14) days after the date of its entry ("Final Order"). The Parties' obligation to consummate the Agreement is conditioned upon the entry of a Final Order by the Court approving the Agreement. If the Court does not enter a Final Order, then this Agreement shall not become effective and shall be null and void.

2.3 Subject to Overbids. Because the State Court Action and the Other Claims cannot be easily valued and given the requirements of Local Bankruptcy Rule 6004-1(c)(2)(A), the sale of the Estate's interest in the State Court Action and the Other Claims shall be subject to the following overbid terms:

2.3.1 Potential overbidders must bid an initial amount of at least \$1,000.00 over the Purchase Price or a total of at least **\$26,000.00**. Minimum bid increments thereafter shall be \$1,000.00. The Trustee shall have sole discretion to determine which overbid is best for the Estate and will seek approval thereof from the Court.

2.3.2 All Overbids must be delivered in writing and be received by the Trustee and his counsel, Rika M. Kido of Shulman Bastian Friedman & Bui LLP, by no later than 5:00 p.m. on the date that is **three (3) business days prior to the Sale Hearing**.

2.3.3 All Overbids must be accompanied by a deposit ("Overbid Deposit") in the form of certified funds in the amount of at least Five Thousand Dollars (\$5,000.00) payable to the Trustee ("Sam S. Leslie, Chapter 7 Trustee" and reference the bankruptcy estate of Barry Fischer) and delivered to the attention of Sam S. Leslie, Chapter 7 Trustee, 3435 Wilshire Blvd., Suite 990, Los Angeles, CA 90010.

2.3.4 All Overbidders must also provide evidence of having sufficient specifically committed funds to complete the transaction for the bid amount and such other documentation relevant to the Overbidders' ability to qualify as the buyer and to close the sale and immediately and unconditionally pay the winning bid purchase price at the Closing.

2.3.5 All Overbidders must seek to acquire the Estate's interest in the State Court Action and the Other Claims on terms and conditions not less favorable to the Estate than the terms and conditions to which Stolar has agreed in seeking to purchase the Estate's interest in the State Court Action and the Other Claims as set forth herein.

2.3.6 If one or more overbids are received, the final bidding round for the Estate's interest in the State Court Action and the Other Claims shall be held at the Sale Hearing in the Bankruptcy Court in order to allow all potential bidders to have the opportunity to overbid and purchase the Estate's interest in the State Court Action and the Other Claims. At the final bidding round to be conducted before the Bankruptcy Court, the Trustee will seek entry of an order, *inter alia*, authorizing and approving the sale of the Estate's interest in the State Court Action and the Other Claims to the bidder whom the Trustee, in the exercise of his business judgment, has determined to have made the highest and best offer to purchase the Estate's interest in the State Court Action and the Other Claims, consistent with the Bidding Procedures set forth above (the "Successful Bidder"). The Sale Hearing may be adjourned or rescheduled without notice, other than by an announcement of the adjourned date at the Sale Hearing in the Bankruptcy Court.

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2.3.7 At the Sale Hearing, the Trustee will seek entry of an order, *inter alia*, authorizing and approving the sale of the Estate's interest in the State Court Action and the Other Claims to the Successful Bidder. The Sale Hearing may be adjourned or rescheduled without notice other than by an announcement of the adjourned date at the Sale Hearing.

2.3.8 In the event that the Successful Bidder fails to close the purchase and sale of the Estate's interest in the State Court Action and the Other Claims within the time parameters approved by the Court, the Trustee shall retain the Successful Bidder's Overbid Deposit and will be released from his obligation to sell the Estate's interest in the State Court Action and the Other Claims to the Successful Bidder. The Trustee may then sell the Estate's interest in the State Court Action and the Other Claims to the first back-up bidder approved by the Court at the Sale Hearing ("First Back-Up Bidder").

2.3.9 In the event that the First Back-Up Bidder fails to close the purchase and sale of the Estate's interest in the State Court Action and the Other Claims within the time parameters approved by the Court, the Trustee shall retain the First Back-Up Bidder's Overbid Deposit and will be released from his obligation to sell the Estate's interest in the State Court Action and the Other Claims to the First Back-Up Bidder. The Trustee may then sell the Estate's interest in the State Court Action and the Other Claims to the second back-up bidder approved by the Court at the Sale Hearing ("Second Back-Up Bidder").

2.4 Closing. The closing of the transaction contemplated by this Agreement (the "Closing Date") shall take place and become effective within five (5) business days after the entry of a Final Order or the total price bid up and paid by the Successful Bidder or by any back-up bidder(s). At the Closing Date, the Trustee will deliver to Stolar (or the Successful Bidder or by any back-up bidder(s) a certified copy of the Approval Order confirming the sale of the Estate's interest in the State Court Action and the Other Claims. The certified copy of the Approval Order shall effectuate the sale and transfer. No other documentation shall be required.

2.5 Warranties. Each party warrants that: she/he/it has full authority to enter into this Agreement; that she/he/it has not assigned or conveyed her/his/its rights to any claim released herein to any other person; that she/he/it is executing this Agreement voluntarily and providing consent unaffected by duress or undue influence; that she/he/it has read this entire Agreement, paragraph by paragraph, and executes it only after being fully advised by counsel; that she/he/it fully understands the meaning of each term in this Agreement and fully understands that this Agreement is a full, final, and complete and integrated Agreement which can only be modified in a written document signed by all of the executing Parties; that she/he/it has neither received nor relied on any promises or representations outside the terms of this Agreement and agrees that none may be offered as evidence of the executing Parties' intentions herein.

2.6 Purchases Without Warranties. Stolar acknowledges that he is purchasing the Estate's interest in the State Court Action and the Other Claims on an "as is, where is" basis, without any warranties, either express or implied. Stolar forever waives, for himself, his heirs, successors and assigns, all claims against the Trustee, his attorneys (Shulman Bastian Friedman & Bui LLP), agents and employees, arising or which might otherwise arise in the future concerning the Estate's interest in the State Court Action and the Other Claims.

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2.7 Trustee's Liability. The Trustee is signing this Agreement in his capacity solely as Chapter 7 Trustee for the Estate. Nothing contained herein shall in any way impute liability to the Trustee, personally or as a member of any professional organization, or anyone acting on his behalf, including but not limited to her counsel, Shulman Bastian Friedman & Bui LLP. In the event that the Trustee fails or refuses to complete the transaction for any reason, then the limit of the Trustee's liability is only to return the money tendered to the Trustee by Stolar.

2.8 Jurisdiction of the Bankruptcy Court. Should any dispute arise regarding this Agreement, the United States Bankruptcy Court for the Central District of California, Santa Ana Division shall have exclusive jurisdiction to determine the same. The Bankruptcy Court shall retain jurisdiction to resolve any such dispute even after the case is dismissed.

2.9 Further Documentation of Settlement. The Parties agree that after the Court approves the Motion at the Sale Hearing, they will execute any and all further and additional documents and take all further and additional steps, which may be necessary or convenient to consummate the terms of this Agreement and accomplish the purposes thereof.

III. MISCELLANEOUS

3.1 Entire Agreement. This Agreement constitutes the entire understanding and agreement between the Parties concerning the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, terms, conditions and representations, written or oral, made by any of the Parties or their agents, concerning the matters covered by this Agreement.

3.2 Modification and/or Amendment. This Agreement may be amended and modified only by a written agreement signed by all of the Parties specifically acknowledging and approving of the modification.

3.3 Execution of Documents. Each Party agrees to execute all documents necessary to carry out the purposes of this Agreement, and to cooperate with the other in the expeditious filing of any and all documents and the fulfillment of the terms of this Agreement.

5.4 Successors and Assigns. This Agreement shall inure to the benefit of, and shall be binding upon the Parties, and each of them, and their respective successors, assigns, heirs, partners, agents, officers, corporations, partnerships, partners, shareholders, representatives, and each of them.

5.5 Controlling Law and Mediation. This Agreement has been entered into in the State of California and this Agreement, including any rights, remedies, or obligations provided for thereunder, shall be construed and enforced in accordance with the laws of the State of California. Any dispute arising out of this Agreement shall be referred to the Bankruptcy Court mediation panel.

5.6 Severability. If any immaterial provision of this Agreement is held, determined or adjudicated to be invalid, unenforceable or void for any reason, each such provision shall be severed from the remaining portions of this Agreement and shall not affect the validity and enforceability of such remaining material provisions.

severed from the remaining portions of this Agreement and shall not affect the validity and enforceability of such remaining material provisions.

5.7 Effect of Headings. The titles and headings of this Agreement are for convenience and identification only, and shall not be deemed to limit, amplify, or define the contents of the respective sections or paragraphs to which they pertain.

5.8 Gender. Whenever in this document the context may so require, the masculine gender shall be deemed to include the feminine and neuter genders, and vice-versa.

5.9 Recitals. Each term of this Agreement is contractual and not merely a recital.

5.10 Construction. This Agreement has been negotiated at arm's length between persons (or their representatives) sophisticated and knowledgeable in the matters dealt with in this Agreement. Accordingly, any rule of law or legal decision that would require interpretation of any ambiguities in this Agreement against the Party that has drafted it is not applicable and is hereby waived. The provisions of this Agreement shall be interpreted in a reasonable manner to effect the purpose of the Parties and this Agreement.

5.11 Counter-parts. This Agreement may be executed in one or more Counter-parts (multiple signatures) each of which shall be deemed an original, and all of which constitute one and the same instrument.

5.12 Attorneys' Fees. All Parties shall bear their own attorneys' fees and costs. In the event any claim, dispute and/or litigation arises out of this Agreement, the prevailing party shall be entitled to recover its attorneys' fees and costs incurred in prosecuting or defending said claim, dispute and/or litigation.

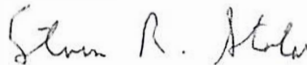
BY SIGNING THIS AGREEMENT WHERE INDICATED BELOW, I CERTIFY THAT I HAVE READ THE FOREGOING AGREEMENT IN ITS ENTIRETY, THAT I FULLY UNDERSTAND ALL THE WORDS, LANGUAGE, TERMS AND CONDITIONS CONTAINED HEREIN AND THAT I AGREE TO BE BOUND BY ALL THE TERMS AND CONDITIONS SET FORTH HEREIN.

Dated: March 20th, 2021



Sam S. Leslie, solely in his capacity as the
Chapter 7 Trustee for the bankruptcy estate of Barry
Fischer

Dated: March 16, 2021



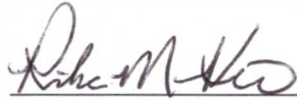
Steven Stolar

[SIGNATURES CONTINUED ON THE FOLLOWING PAGE.]

APPROVED AS TO FORM:

SHULMAN BASTIAN FRIEDMAN & BUI LLP

Dated: March 26, 2021

A handwritten signature in dark ink, appearing to read "Rika M. Kido", is written over a horizontal line.

Lynda T. Bui
Rika M. Kido
Attorneys for Sam S. Leslie,
Chapter 7 Trustee